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TOWN OF WESTMINSTER

Town of Westminster

GENERAL & ZONING BYLAWS APPROVED AT ANNUAL TOWN MEETING MAY 4, 2019

Changes approved by Attorney General on June 12, 2019

Ellen M. Sheehan
Westminster Town Clerk



**TOWN OF WESTMINSTER
OFFICE OF THE TOWN CLERK**

Ellen M. Sheehan
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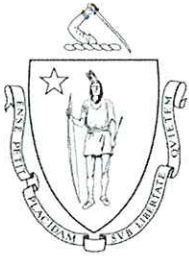
June 20, 2019

On the date written above, I have posted copies of the General and Zoning Bylaw Amendments passed at the Annual Town Meeting on May 4, 2019 and approved by the Attorney General of Massachusetts on June 12, 2019, at the following public places in the Town of Westminister:

Community/Senior Center
Town Hall
US Post Office
Forbush Memorial Library
Public Safety Building

The above amendments were also posted on our Town of Westminister website on the same day.

Ellen M. Sheehan
Town Clerk



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

(508) 792-7600
(508) 795-1991 fax
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June 12, 2019

Ellen M. Sheehan, Town Clerk
Town of Westminster
11 South Street
Westminster, MA 01473

Re: Westminster Annual Town Meeting of May 4, 2019 -- Case # 9449
Warrant Articles # 29, 30 and 32 (Zoning)
Warrant Article # 33 (General)

Dear Ms. Sheehan:

Articles 30 and 32 - We approve Articles 30 and 32 from the May 4, 2019 Westminster Annual Town Meeting.

Article 29 - We retain Article 29 for further review and will issue our decision on this Article on or before our deadline of August 26, 2019.

Article 33 - We take no action on Article 33 because it is a vote to accept the provisions of G.L. c. 64N, § 3, pertaining to a local sales tax upon the sale or transfer of marijuana or marijuana products. Votes to accept statutes are not by-law amendments and are not subject to review and approval by the Attorney General pursuant to G.L. c. 40, § 32. However, we note that the Town must file the vote with the Secretary of State and notify the Department of Revenue/Division of Local Services (DOR/DLS) of the Town's acceptance of the provisions of G.L. c. 64N, § 3, if it has not already done so. According to the DOR/DLS, the Town Clerk must immediately notify the Municipal Databank within the DLS regarding the Town's acceptance of the statutory provisions. *See* DOR/DLS Bulletin BUL-2018- 3. You may contact the DLS with any additional questions at:

Municipal Databank
databank@dor.state.ma.us
617-626-2384.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting

and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Margaret J. Hurley

by: Margaret J. Hurley, Assistant Attorney General
Chief, Central Massachusetts Division
Director, Municipal Law Unit
Ten Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 x 4402

cc: Town Counsel Brian Riley



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VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 4, 2019

An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.

ARTICLE 30. Voted to amend the Westminister Zoning Bylaw (Chapter 205 of the Code of the Town of Westminister, Massachusetts), to regulate the location and operation of Recreational Marijuana Establishments, as follows:

Zoning Amendment #1: Add the following definitions to Section 205-4 of the Zoning Bylaw (Definitions):

HEMP

This term shall mean the plant of the genus cannabis and any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis or per volume or weight of marijuana product or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.

INDUSTRIAL HEMP

The term refers to hemp that is used exclusively for industrial purposes including, but not limited to, the fiber and seed. The Department (MA Department of Agriculture) will consider all permitted activities under this Policy as falling under the definition of "Industrial Hemp" in M.G.L. c. 128, Section 116. All references to "Hemp" or "Industrial Hemp" in this Policy shall mean Industrial Hemp.

MARIJUANA PRODUCTS

Products that contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for non-medical use or consumption, including but not limited to edible products, beverages, topical products, ointments, oils and tinctures.

RECREATIONAL MARIJUANA ESTABLISHMENTS (RME)

The term shall apply to marijuana cultivators, independent testing laboratories, marijuana product manufacturers or any other type of licensed adult use/non-medical marijuana-related business pursuant to MGL Chapter 94G.

MARIJUANA CULTIVATOR

An entity licensed by the State to cultivate, process and package non-medical marijuana, to deliver non-medical marijuana to RMEs and the transfer marijuana to other RMEs, but not directly to consumers. A Craft Marijuana Cultivator Cooperative performing a similar function shall be included within this definition.

MARIJUANA PRODUCT MANUFACTURER

An entity licensed by the State to obtain, manufacture, process and package non-medical marijuana and marijuana products, to deliver non-medical marijuana and marijuana products to RMEs and to transfer non-medical marijuana and marijuana products to other RMEs, but not directly to consumers. A Craft Marijuana Cultivator Cooperative performing a similar function shall be included within this definition.

MARIJUANA RETAILER

An entity licensed to purchase and deliver non-medical marijuana and marijuana from RMEs and to deliver, sell or otherwise transfer non-medical marijuana and marijuana products to RMEs and to consumers.

Zoning Amendment #2: Add a new section (205-41.1) within the Zoning Bylaw to regulate Recreational Marijuana Establishments. This new section shall read as follows:

205-41.1 Recreational Marijuana Establishments (RME)

A. Purpose:

The purpose of this bylaw is to allow State-licensed RMEs to exist in the Town of Westminster in accordance with all applicable State laws and State and local regulations, and allow the Town to impose reasonable safeguards to govern the time, place and manner of RMEs in such a way as to ensure public health, safety, well-being, and reduce undue impacts on the neighborhoods where RMEs are allowed to operate. Therefore, this bylaw may permit RMEs in suitable locations where there is access to regional roadways, where they may be readily monitored by law enforcement for health and public safety purposes, and to minimize adverse impacts on surrounding neighborhoods and the Town as a whole by regulating the siting, design, placement, operation and security of RMEs.

This bylaw only applies to RMEs and not industrial hemp. All aspects of industrial hemp are regulated by the MA Department of Agriculture and are not subject to this bylaw.

B. Locational Standards:

RMEs that involve retail sales on the property shall not be sited within a radius of 500 feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section is measured in a straight line from the nearest point of the property line of the facility in question to the nearest point of the property line of the proposed RMD.

C. Operational Standards:

- 1) All RMEs shall operate in full compliance with the regulations promulgated by the Massachusetts Cannabis Control Commission as provided in 935 CMR 500.
- 2) Hours of operation shall be specified within the Special Permit.
- 3) RMEs shall be operated within an enclosed structure. For the purpose of this bylaw, a greenhouse shall qualify as an enclosed structure. The SPGA may allow outdoor cultivation upon the following conditions:
 - a) The Applicant shall only plant low-odor seed varieties.
 - b) The Applicant shall utilize state-of-the-art odor control technology that has a demonstrated track record of successfully controlling odors.
 - c) Utilization of other odor control techniques as required by the SPGA.

D. Prohibitions and Limitations:

- 1) RMEs shall be prohibited as an Accessory Use or Home Occupation in all zoning districts.
- 2) It shall be unlawful for any person or entity to operate an RME without obtaining a Special Permit and undergoing Site Plan Approval pursuant to the requirements of this bylaw.
- 3) A separate Special Permit is required for each individual RME, as well as separate Site Plan Approval.
- 4) No RME shall be operated in a mobile facility, excepting deliveries to off-site RMEs and home deliveries to consumers licensed by the Massachusetts Cannabis Control Commission.
- 5) No RME may be operated in such a manner as to cause or create a public nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to fire, explosion, smoke, gas, fumes, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of abutting properties.

6) The issuance of a Special Permit and Site Plan Approval pursuant to this bylaw shall not create an exception, defense or immunity to any person or entity in regard to any potential criminal liability the person or entity may have for the production, distribution or possession of marijuana.

E. Necessary Permits and Approvals:

1. RMEs shall require both a Special Permit and Site Plan Approval. The Planning Board is the Special Permit Granting Authority (SPGA) for such uses. The application and public hearing process for the Special Permit and Site Plan Approval shall be conducted concurrently by the SPGA. In evaluating a Special Permit application for a RME, the SPGA shall not issue a Special Permit unless the SPGA makes a finding that the RME use is appropriate for the proposed site and that the use will not be unduly detrimental to the health, safety, morals or welfare of the community or neighborhood by reasons of noise, traffic, pollution, noxious gases or wastes, or demand on community services. In its final decision, the SPGA shall stipulate any conditions it deems necessary to ensure that the use will not become unduly detrimental to the Town.

2) Existing Medical Marijuana establishments (those having obtained a license to operate from the State of Massachusetts) that wish to convert to an RME or add an RME to its existing operation are required to obtain a new Special Permit and Site Plan Approval from the SPGA, as well as renegotiate its Host Community Agreement with the Town.

F. Additional Site Plan Requirements:

1) All site plans for RMEs shall include a 10-foot non-vegetative buffer around all parking areas and buildings.

2) Interior building plans for RMEs shall be submitted to and reviewed by the Building, Police and Fire Departments.

G. Special Permit Terms:

A Special Permit granted under this section shall expire within two (2) years of the date of permit issuance. Prior to the expiration of the Special Permit, the Applicant may request a renewal of the Special Permit for an additional two (2) year period which shall be granted after the SPGA determines that the RME is operating in accordance with the conditions of the original Special Permit or any approved modification thereof. Said renewal shall not require the Applicant to go through the Site Plan Approval process, provided that conditions of the site and RME have not changed materially from the original application.

H. Transfer of Special Permit:

The Special Permit shall have a term limited to the duration of the Applicant's ownership of or other legal interest in the premises as a RME. A Special Permit may be transferred only with the approval of the SPGA in the form of a modification of the original Special Permit and with all information required in this section and the Planning Board's Site Plan Rules and Regulations. No transfer of ownership, except transfer to an affiliated entity, shall be permitted for two years after the date of approval for the Special

Permit unless such transfer is required due to the death or disability of the owner(s). If the Special Permit holder requests approval of a transfer of ownership, then the holder must submit the following proof to the SPGA:

- 1) That the new owner will operate the RME in accordance with the terms of the Special Permit and the Site Plan Approval conditions; and
- 2) That all amounts due under the Host Community Agreement have been paid in a timely manner and that all taxes, fines, penalties, fees or other charges due to the Town have also been paid in a timely manner.

I. Termination:

The SPGA may terminate a Special Permit and/or Site Plan Approval due to violation of any of its conditions of approval. In addition, a Special Permit and/or Site Plan Approval shall terminate upon:

- 1) Failure of the permit holder to commence operation within two (2) years of the date of permit issuance; or
- 2) Transfer of ownership of the RME without approval of the SPGA. For these purposes, transfer of ownership shall include any reallocation of ownership or change in business structure which results in a change of its designated representatives or responsible individuals; or
- 3) Termination of the Host Community Agreement or failure to pay a host fee or impact fee under the Agreement with the Town.

J. Modification:

A Special Permit or Site Plan Approval for an RME may be modified by the SPGA after a public hearing. No modification is permitted for a change of location. Any change of location shall require a new Special Permit and Site Plan Approval from the SPGA.

K. Severability:

The provisions of this bylaw are severable. If any provision, paragraph, sentence or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of or application of this bylaw.

Zoning Amendment #3:

Add "Recreational Marijuana Establishments" as a new Item 13 and under Section H (Other Principal Uses) within the Table of Use Regulations.

| | R-1 | R-2 | R-III | C-I | C-II | VC | I-I | I-II |
|--|-----|-----|-------|-----|------|----|-----|------|
| (13) Recreational Marijuana Establishments (See Section 205.41.1) | N | N | N | N | N | N | SP | SP |

(2/3 vote required)
2/3 VOTE RECOGNIZED

A True Copy, Attest:



Ellen M. Sheehan
Westminster Town Clerk



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OFFICE OF THE TOWN CLERK**

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VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 4, 2019

An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.

ARTICLE 32. Voted to amend the Westminister Zoning Bylaw (Chapter 205 of the Code of the Town of Westminister, Massachusetts) by adding a new Section 205-41.2, **Retail Sales of Recreational Marijuana**; and further, to amend the Table of Contents to add Section 205-41.2, "**Retail Sales of Recreational Marijuana**," and further, to amend the Table of Uses by adding "Retail Sales of Recreational Marijuana" as a new Item 11 under Section H (Other Principal Uses) within the Table of Use Regulations, as follows:

205-41.2 Retail Sales of Recreational Marijuana
Retail sales of recreational marijuana shall be allowed in the Town of Westminister under the same conditions, standards and requirements for Recreational Marijuana Establishments (RMEs) as set forth above in Section 205-41.1, with the following limitation:

As Defined in MGL Chapter 94G, the number of retail establishments selling recreational marijuana shall be limited to no more than 20% of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under MGL Chapter 138, Section 15. No Special Permit may be granted for a retail establishment which will result in violation of this limit.

And further to amend the Table of Uses by adding "Retail Sales of Recreational Marijuana" as a new Item 14 under Section H (Other Principal Uses) within the Table of Use Regulations.

| | R-1 | R-2 | R-III | C-I | C-II | VC | I-I | I-II |
|--|-----|-----|-------|-----|------|----|-----|------|
| 14) Retail Sales of Recreational Marijuana | N | N | N | N | N | N | SP | SP |

(2/3 vote required)
2/3 VOTE RECOGNIZED

A True Copy, Attest:



Ellen M. Sheehan
Westminster Town Clerk